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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

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WASHINGTON, D.C. 20554

In the Matter of) MM Docket No. 96-173
CHAMELEON RADIO CORPORATION)
Order To Show Cause Why the License)
of Station KFCC(AM), Bay City, Texas,)
Should Not Be Revoked)
Request for Extension of Special)
Temporary Authority)

To: The Hon. Joseph Chachkin

MASS MEDIA BUREAU'S COMMENTS ON
LETTER OF CHAMELEON RADIO CORPORATION

1. On February 6, 1997, Chameleon Radio Corporation ("Chameleon"), through its president, Don Werlinger ("Werlinger"), sent a letter to the Presiding Administrative Law Judge. The Mass Media Bureau hereby submits its comments on that letter.

2. The instant letter is apparently Chameleon's response to the Order, released February 6, 1997 (but faxed to the parties on February 4, 1997), which addressed Chameleon's February 3, 1997 "Emergency Motion for Change in Hearing Dates" ("Emergency Motion"). In that motion, Chameleon stated, *inter alia*, that "Mr. Werlinger was able to secure an agreement with new counsel; however, owing to the lack of time to prepare for the hearing, the new counsel would not accept the case unless a 30 day postponement of the hearing was secured by Chameleon; hence, this request." Emergency Motion, at ¶ 2. In light of those assertions, the Order held in abeyance Chameleon's Emergency Motion

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"pending receipt of a statement from new counsel detailing his need for a 30-day or lesser postponement."

3. Aside from the fact that Chameleon's instant submission is in effect a letter pleading which is neither countenanced by Commission precedent nor contemplated by the Commission's Rules,¹ Chameleon has totally failed to provide what the Order required. Thus, rather than submit a statement from new counsel which details counsel's need for an extension, Chameleon has submitted a letter from its president who states that the agreement referenced in the Emergency Motion was only "tentative." Moreover, Chameleon's president now relates that he knew as of "late Monday, February 4th"² that the attorney wanted twice as much money as he had previously indicated he would require before taking the case. Thus, it now appears that the real reason for any delay in the commencement of the hearing is not that new counsel needs more time to prepare, but that Chameleon purportedly needs more money to retain counsel. More importantly, Chameleon has left unexplained the apparent discrepancy between the reasons for seeking a delay as stated in its Emergency Motion and the reasons stated in its February 6 letter.

4. In view of the above, the Bureau respectfully renews its request that Chameleon's

¹ See Religious Broadcasting Network, 6 FCC Rcd 25 (Rev. Bd. 1991); Action Radio, Inc., 37 FCC 2d 351, 353 (1972).

² Inasmuch as Monday was February 3, it is unclear whether Chameleon means that it learned about the true cost of hiring the unnamed attorney on Monday, February 3, or on Tuesday, February 4.

Emergency Motion be denied.³ Further, in view of the disruption caused by Chameleon's actions, the Bureau believes that meaningful sanctions should be imposed upon Chameleon. In this regard, the Bureau submits that it should not be forced to make Jake Landrum, a resident of Texas, available for cross examination. Rather, the Presiding Administrative Law Judge should, in addition to denying Chameleon's Emergency Motion, rule that, by its disruptive behavior, Chameleon has forfeited any right it may have had to cross examine Mr. Landrum. Cf. Sections 1.248(c)(4) and (d)(2)-(4) of the Commission's Rules: Hillebrand Broadcasting, Inc., 1 FCC Rcd 419 (1986). See also, Section 1.243 of the Commission's Rules. Finally, should the Presiding Administrative Law Judge decline to deny entirely Chameleon's Emergency Motion, he should order that the hearing in this proceeding begin no later than February 20 -- the date Chameleon states in its letter that it will be ready whether

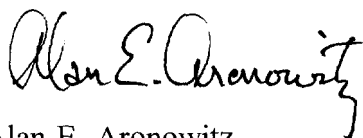
³ See "Mass Media Bureau's Opposition to Emergency Motion for Change in Hearing Dates," filed February 4, 1997.

or not it has counsel -- and he should set an appropriate date for notification of witnesses to be cross examined.

Respectfully submitted,
Roy J. Stewart
Chief, Mass Media Bureau

A handwritten signature in cursive script, appearing to read "James W. Stewart for".

Norman Goldstein
Chief, Complaints &
Political Programming Branch

A handwritten signature in cursive script, appearing to read "Alan E. Aronowitz".

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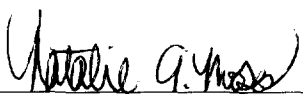
February 7, 1997

CERTIFICATE OF SERVICE

Natalie Moses, a secretary in the Complaint/Political Programming Branch, Mass Media Bureau, certifies that she has on this 7th day of February 1997, sent by telecopier and by regular United States mail, copies of the foregoing "**Mass Media Bureau's Comments on Letter of Chameleon Radio Corporation**" to:

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c/o Don Werlinger
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Houston, Texas 77497

Telecopier: (281) 575-1270



Natalie Moses